

TOWN OF BUENA VISTA, COLORADO  
ORDINANCE NO. 2  
(SERIES OF 2010)

**AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, EXTENDING THE TEMPORARY MORATORIUM ON THE PROCESSING AND APPROVAL OF ANY APPLICATION FOR A TOWN OF BUENA VISTA PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA; DIRECTING THE PROMPT INVESTIGATION OF THE TOWN'S REGULATORY AUTHORITY OVER SUCH BUSINESSES; DECLARING THE INTENTION OF THE BOARD OF TRUSTEES TO CONSIDER THE ADOPTION OF APPROPRIATE TOWN REGULATIONS WITH RESPECT TO SUCH BUSINESSES IF PERMITTED BY LAW**

WHEREAS, by Ordinance No. 12, Series of 2009, the Board of Trustees imposed a ninety-day moratorium on the processing and approval of all applications for Town permits and licenses relating to the operation of Medical Marijuana Dispensaries to investigate the Town's ability to regulate such businesses and to develop and implement any appropriate regulations; and

WHEREAS, the Colorado general Assembly is currently considering legislation which will likely affect the authority of local governments to adopt and implement regulations with respect to Medical Marijuana Dispensaries; and

WHEREAS, the Board of trustees wishes to extend the current moratorium for an additional ninety days to determine what legislation will be proposed and/or adopted on the subject Medical Marijuana Dispensaries; and

WHEREAS, proprietors of Medical Marijuana Dispensaries will not be unduly prejudiced by the extension of such moratorium.

**WHEREAS, NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO AS FOLLOWS:**

**Section One: Findings and Intent.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board of Trustees of the Town of Buena Vista.

**Section Two: Extension of Temporary Moratorium on Applications for Permits and Licenses Related to Businesses that Sell Medical Marijuana.** Upon the adoption of this Ordinance, the existing a moratorium imposed upon the processing and approval of all applications for permits and licenses by the Town related to a Medical Marijuana Dispensary is extended for an additional ninety days. The Town staff is directed to refuse

to accept for filing, and not to process or review, any such applications for such businesses during the moratorium period.

**Section Three: Staff to Investigate and Prepare Proposed Regulations.** Before the expiration of the moratorium imposed by this Ordinance, the Town staff, working with the Town Attorney, shall prepare appropriate regulations for Medical Marijuana Dispensaries for consideration by Board of Trustees.

**Section Four: Police Power Finding.** The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town and the inhabitants thereof.

**Section Five: Authority.** The Board of Trustees hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29 C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); and (v) Section 31-15-501 C.R.S. (concerning municipal power to regulate businesses).

**Section Six: Emergency Declared; Effective Date; Expiration.** The Board of Trustees finds, determines and declares that passage of this Ordinance is necessary for the immediate preservation of the public peace, health and safety in order to prevent the processing and approval of any application for a Town permit or license relating to the operation of a Medical Marijuana Dispensary, until the Town has had a reasonable opportunity to determine: (i) the extent of the Town's regulatory authority over such businesses, including, but not limited to, the authority to license, zone and prohibit; (ii) what regulations, if any, should be imposed by the Town upon such businesses; and (iii) evaluate the impact, if any, that the United States Supreme Court case of *Gonzales, et. al. v. Raich, et al.*, 545 U.S. 1, 125 S.Ct. 2195, 162 L.Ed. 2d 1 (2005), has on any regulations that the Town may consider in regulating these dispensaries. Failure to immediately impose the moratorium provided for in this Ordinance will potentially allow acquisition of certain rights with respect to Medical Marijuana Dispensaries before the Town has had a reasonable opportunity to consider appropriate regulations thereof. The Board of Trustees further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Buena Vista. The moratorium imposed by the Ordinance shall commence as of the date of the adoption of this Ordinance and shall expire ninety (90) days thereafter, unless repealed prior to that date.

**INTRODUCED, READ, ADOPTED, AND ORDERED PUBLISHED** this  
9th day of February, 2010.

TOWN OF BUENA VISTA, COLORADO

By: Cara Russell  
Cara Russell, Mayor

ATTEST:

Diane Spomer  
Diane Spomer, Town Clerk

(SEAL)

Published in full following adoption by the Board of Trustees in the Chaffee County  
Time, a newspaper of general circulation within the Town of Buena Vista, on the 18 day  
Feb., of 2010